THE BOMBAY HOUSING BOARD ACT, 1949.

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SCHEDULE.

BOMBAY ACT No. LXIX OF 1948.[1]

[THE BOMBAY HOUSING BOARD ACT, 1948.]

[*30th December 1948.*]

Amended by Bom. 19 of 1949.

An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation.

WHEREAS it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and with that object in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Housing Board Act, 1948.
(*2*) It extends to the whole of the Province of Bombay.
(*3*) It shall come into force in such area and on such date as the Provincial Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—
(*1*) "adjoining area" means such area as may be specified to be an adjoining area under section 24;
(*2*) "betterment charges" means the charges leviable under section 43;
(*3*) "Board" means the Housing Board constituted under section 3;
(*4*) "building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the Provincial Government by notification in the *Official Gazette*;
(*5*) "by-laws" means by-laws made under section 68;
(*6*) "Chairman" means the Chairman of the Board;
(*7*) "Corporation" means the Municipal Corporation of the City of Bombay;
(*8*) "Housing Scheme" means a Housing Scheme made under this Act;
(*9*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened and things attached to the earth or permanently fastened to anything attached to the earth;
(*10*) "member" means a member of the Board;
(*11*) "prescribed" means prescribed by rules;
(*12*) "programme" means the annual housing programme prepared by the Board under section 26;
(*13*) "regulations" means regulations made under section 67;
(*14*) "rules" means rules made under section 66;
(*15*) "Secretary" means the Secretary of the Board;
(*16*) "Tribunal" means the Tribunal constituted under section 49;
(*17*) "year" means the year commencing on the 1st day of April and ending on the 31st day of March.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 590.

CHAPTER II.

ESTABLISHMENT OF THE BOARD.

Incorporation.

3. (*1*) With effect from such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf, there shall be established for the purposes of this Act a Board by the name of the Bombay Housing Board.

(*2*) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to contract and do all things necessary for the purposes of this Act.

(*3*) For the purposes of this Act and the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendment) Act, 1948, the Board shall be deemed to be a local authority. I of 1894. Bom. IV of 1948.

Constitution of the Board.

4. (*1*) The Board shall consist of the Chairman and four other members appointed by the Provincial Government.

(*2*) Any member of the Board may at any time resign his office by submitting his resignation to the Provincial Government:

Provided that the resignation shall not take effect until it is accepted.

Leave of absence to Chairman.

5. The Provincial Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the Provincial Government appoints to act for the Chairman during such absence on leave shall, while so acting, be deemed for all purposes of this Act to be the Chairman.

Disqualification for appointment on Board.

6. (*1*) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he—

(*a*) holds any office or place of profit under the Board,

(*b*) is of unsound mind,

(*c*) is an uncertificated bankrupt or an undischarged insolvent,

(*d*) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of, the Board, or

(*e*) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board.

(*2*) A person shall not, however, be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reason only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

(*3*) A person shall not also be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company:

Provided that such person discloses to the Provincial Government the nature and extent of the shares held by him.

Term of office and conditions of service of members.

7. (*1*) Every member shall hold office for a period of three years from the date of his appointment:

Provided that after the expiry of the period of his appointment a person shall be eligible for re-appointment as a member.

(*2*) Every member shall receive such allowances as may be prescribed.

(*3*) The Chairman shall be a whole time member of the Board. His remuneration and other conditions of service shall be such as may be prescribed.

(*4*) The allowances to the members and the remuneration to the Chairman shall be paid from the fund of the Board.

Vacancy of a member.

8. If a member,—

(*a*) becomes subject to any of the disqualifications mentioned in section 6, or

(*b*) tenders his resignation in writing to the Provincial Government, or

(*c*) is absent without the permission of the Board from all the meetings of the Board for a period of two successive months,

he shall cease to be a member.

Vacancy to be filled as early as practicable.

9. Any vacancy of a member of the Board shall be filled in as early as practicable:

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

Proceedings presumed to be good and valid.

10. No disqualification of or defect in the appointment of any person acting as a Chairman or a member of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Temporary absence of members.

11. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the Provincial Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

Appointment of officers and servants.

12. The Board may appoint a Secretary, a Housing Commissioner and such other officers and servants as it considers necessary for the efficient performance of its functions;

Provided that the appointment of the Secretary and the Housing Commissioner and any other officer whose salary exceeds rupees one thousand per mensem shall be subject to the previous approval of the Provincial Government.

Conditions of service of officers and servants.

13. The remuneration and other conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board shall be such as may be determined by regulations.

Absorption of existing staff of Bombay Provincial Housing Board by the Board.

14. (*1*) The Board shall take over and employ such of the existing staff serving for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46 dated 18th January 1947 as the Provincial Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder:

Provided—

(*a*) that during the period of such employment all matters relating to the pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the members of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the Provincial Government,

(*b*) that any such member shall have a right of appeal to the Provincial Government against any order of reduction, dismissal or removal from service, fine or any other punishment.

(*2*) All permanent servants of the said staff taken over and empolyed by the Board under sub-section (*1*) shall have a lien on their posts in the service of the Provincial Government and the period of their service under the Board shall on their reversion to the service of the Provincial Government, be counted for their increments, pension and other matters relating to their service.

General disqualification of all officers and servants.

15. No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, by or on behalf of the Board, or in any employment under, by or on behalf of the Board otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

Appointment of Committees.

16. (*1*) The Provincial Government may appoint a Housing Advisory Committee. The functions of the Housing Advisory Committee shall be advisory and such as may be determined by the Provincial Government.

(*2*) Subject to any rules made under section 66, the Board may from time to time appoint one or more other Committees for the purpose of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.

Conduct of Business.

Meetings of Board.

17. The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely :—

(*a*) an ordinary meeting shall be held once at least every fortnight,

(*b*) the Chairman may, whenever he thinks fit, call special meetings,

(*c*) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion,

(*d*) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote,

(*e*) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

Procedure of Committees.

18. (*1*) The Housing Advisory Committee shall meet to discharge the functions assigned to it in such manner as may be directed by the Provincial Government.

(*2*) Any other Committee appointed under sub-section (*2*) of section 16 shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

Contracts.

19. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act. Power to make contracts.

20. (*1*) Every contract shall be made on behalf of the Board by the Chairman : Execution of contract.

Provided that—

(*a*) no contract involving an expenditure of rupees fifteen lacs and more shall be made without the previous sanction of the Provincial Government,

(*b*) no contract involving an expenditure of rupees three thousand and more shall, subject to clause (*a*) above, be made without the previous sanction of the Board.

(*2*) Sub-section (*1*) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

21. Subject to any rules which the Provincial Government may make in this behalf, the Board may by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Housing Commissioner or any other officer specified by it in the order. Delegation of Board's power to sanction contracts.

22. (*1*) Every contract made by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed. Further provisions as to execution of contracts.

(*2*) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

CHAPTER III.

Housing Schemes.

23. Subject to the provisions of this Act and subject to the control of the Provincial Government, the Board may incur expenditure and undertake works in any area to which this act applies for the framing and execution of such housing schemes as it may consider necessary from time to time [1][or as may be entrusted to it by the Provincial Government.] Duty of Board to undertake housing schemes.

24. Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely :— Matters to be provided for by housing schemes.

(*a*) the acquisition by purchase, exchange or other wise of any property necessary for or affected by the execution of the scheme ;

(*b*) the laying or relaying out of any land comprised in the scheme ;

(*c*) the distribution or redistribution of sites belonging to owners of property comprised in the scheme ;

(*d*) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(*e*) the demolition of obstructive buildings or portions of buildings ;

(*f*) the construction and reconstruction of buildings ;

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[1] These words were inserted by Bom. 19 of 1949, s. 2.

(*g*) the sale, letting or exchange of any property comprised in the scheme;

(*h*) the construction and alteration of streets and back lanes;

(*i*) provision of the draining, water-supply and lighting of the area included in the scheme;

(*j*) the provision of parks, playing-fields and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches;

(*k*) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to reverse or other sources and means of water supply;

(*l*) the provision of accommodation for any class of inhabitants;

(*m*) the advance of money for the purposes of the scheme;

(*n*) the provision of facilities for communication and transport;

(*o*) the collection of such information and statistics as may be necessary for the purposes of this Act;

(*p*) any other matter for which, in the opinion of the Provincial Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

Explanation.—For the purposes of this section, the Provincial Government may, on the recommendation of the Board, by notification in the *Official Gazette*, specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme.

25. (*1*) No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the Provincial Government under Chapter XIIA of the City of Bombay Municipal Act,1888, nor any housing scheme made under this Act contain anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the Provincial Government under the Bombay Town Planning Act, 1915. Bom. III of 1888. Bom. I of 1915.

(*2*) If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under the City of Bombay Municipal Act, 1888, or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1915, the decision of the Provincial Government shall be final. Bom. III of 1888. Bom. I of 1915.

Preparation and submission of annual housing programme, budget and establishment schedule.

26. (*1*) Before the first day of December in each year, the Board shall prepare and forward—

(*i*) a programme,

(*ii*) a budget for the next year,

(*iii*) a schedule of the staff of officers and servants already employed and to be employed during the next year,

to the Provincial Government in such form as may be prescribed.

(*2*) The programme shall contain—

(*a*) such particulars of housing schemes which the Board proposes to execute whether in part or whole during the next year as may be prescribed;

(*b*) the particulars of any undertaking which the Board proposes to organize or execute during the next year for the purpose of the production of building materials; and

(*c*) such other particulars as may be prescribed.

(*3*) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year.

Programme to be published for inviting suggestion and objections.

27. (*1*) The Board shall before forwarding the programme to the Provincial Government under section 26 publish a draft of the programme in the *Official Gazette* and in such other manner as may be prescribed.

(*2*) If within three weeks from the date of such publication any person communicates in writing to the Board any suggestion or objection relating to such programme the Board shall consider such suggestion or objection and may modify such programme as it thinks fit.

(*3*) The Board shall then forward the programme, the budget and the schedule of the staff of officers and servants to the Provincial Government for sanction as required by section 26.

Sanction to programme, budget and establishment schedule.

28. The Provincial Government may sanction the programme, the budget and the schedule of the staff of officers and servants forwarded to it with such modifications as it deems fit.

Publication of sanctioned programme.

29. The Provincial Government shall publish the programme sanctioned by it under section 28 in the *Official Gazette.*

Supplementary programme and budget.

30. The Board may, at any time, during the year, in respect of which a programme has been sanctioned under section 28 submit a supplementary programme and budget to the Provincial Govenment and the provisions of sections 27, 28 and 29 shall apply to such supplementary programme.

Variation of pregramme by Board after it is sanctioned.

31. The Board may at any time vary any programme or any part thereof included in the programme sanctioned by the Provincial Government :

Provided that no such variation shall be made if it involves an expenditure in excess of 10 per cent. of the amount as originally sanctioned for the execution of any housing scheme included in such programme or affects its scope or purpose.

Sanctioned housing schemes to be executed.

32. After the programme has been sanctioned and published by the Provincial Government under sections 28 and 29 the Board shall, subject to the provisions of sections 31, proceed to execute the housing schemes included in the programme.

Publication of housing scheme in the *Official Gazette.*

33. (*1*) Before proceeding to execute any housing scheme under section 32 the Board shall, by notification in the *Official Gazette,* publish the scheme. The notification shall specify that the plan, showing the area which it is proposed to include in the housing scheme and the surrounding lands, shall be open to inspection of the public at all reasonable hours at the office of the Board.

(*2*) If within two weeks f om the date of the publication of the housing scheme any person communicates in writing to the Board any suggestion or objection relating to the scheme, the Board shall consider such suggestion or objection and may modify the scheme as it thinks fit.

(*3*) The Board shall then by notification in the *Official Gazette* publish the final scheme. The notification shall specify that the plan, showing the area included in the final scheme and the surrounding lands and other particulars as may be prescribed shall be open to inspection of the public at all reasonable hours at the office of the Board.

(*4*) The publication of a notification in the *Official Gazette* under sub-section (*3*) shall be conclusive evidence that the said scheme has been duly framed.

Transfer to the Board for purposes of housing scheme of land vested in the Corporation, or a municipality or local board.

34. (*1*) Whenever any street, square or other land, or any part thereof, which—

(*a*) is situated in the City of Bombay and is vested in the Municipal Corporation of the City of Bombay, or

(*b*) is situated in any part of a municipality constituted under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, and is vested in that municipality, or

(*c*) is situated in any area included within the jurisdiction of a local board constituted under the Bombay Local Boards Act, 1923, and is vested in that local board,

Bom. XVIII of 1925. Bom. III of 1901. Bom. VI of 1923.

is within the area included in the programme sanctioned by the Provincial Government and is required for the purposes of such housing scheme, the Board shall give notice accordingly to the Corporation or municipality or local board, as the case may be.

(*2*) Where the Corporation, municipality or local Board concurs, such street, square or other land or part thereof shall vest in the Board.

(*3*) Where there is any dispute the matter shall be referred to she Provincial Government. The Provincial Government shall, after hearing the Corporation, municipality or local board concerned, decide the matter. The decision of the Provincial Government shall be final. If the Provincial Government decides that such street, square or land shall vest in the Board, it shall vest accordingly.

(*4*) Nothing in this section shall affect the rights or powers of the Corporation, municipality or local board in or over any drain or water work in such street, square or land.

Compensation in respect of land vested in the Board.

35. (*1*) Where any land vests in the Board under the provisions of section 34 and the Board makes a declaration that such land shall be retained by the Board only until it revests in the Corporation, the municipality or the local board as part of a street or an open space under section 38, no compensation shall be payable by the Board to the Corporation, the municipality or the local board, as the case may be, in respect of that land.

(*2*) Where any land vests in the Board under section 34 and no declaration is made under sub-section (*1*) in respect of the land, the Board shall pay to the Corporation, the municipality or the local board, as the case may be, as compensation a sum equal to the value of such land.

(*3*) If, in any case where the Board has made a declaration in respect of any land under sub-section (*1*), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Corporation, the municipality or the local board, as the case may be, the Board shall pay to the Corporation, the municipality or the local board compensation in respect of such land in accordance with the provisions of sub-section (*2*).

Power of Board to turn or close public street vested in it.

36. (*1*) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

(*2*) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall ,as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(*3*) In determining the compensation payable to any person under sub-section (*2*) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(*4*) When any public street vested in the Board is permanently closed under sub-section (*1*), the Board may sell or lease so much of the same as is no longer required.

Reference to Tribunal in case of dispute under section 35 or 36.

37. If there is any dispute as to whether any compensation is payable under section 35 or as to the amount of compensation payable under section 35 or section 36, as the case may be, the matter shall be referred to the Tribunal.

Vesting in Corporation, municipality or local board of streets laid out or altered and open space provided by the Board under housing scheme.

38. (*1*) Whenever the Provincial Government is satisfied—

(*a*) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the programme sanctioned by the Provincial Government under section 28, and

(*b*) that such lamps, lamp-posts and other appartuas as the Corporation, the municipality or the local board, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and

(*c*) that water and other sanitary conveniences have been duly provided in such street,

the Provincial Government may declare the street to be a public street, and the street shall thereupon vest in the Corporation, municipality or local board, as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation, municipality or local board.

(*2*) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, it shall on completion be transferred to the local authority concerned, by resolution of the Board, and shall thereupon vest in, and be maintained at the expense of, the local authority :

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(*3*) If any difference of opinion arises between the Board and the Corporation, municipality or local board in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Provincial Government whose decision shall be final,

Other duties of the Board.

39. It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all things for—

(*a*) unification, simplification and standardisation of building materials ;

(*b*) encouraging pre-fabrication and mass production of house com onents ;

(*c*) organising or undertaking the production of building materials required for the housing schemes ;

(*d*) encouraging reserach for discovering cheap building materials and evolving new methods of economic construction ;

(*e*) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

Board to assume management of requisitioned lands.

40. The Board shall, subject to the general control of the Provincial Government, assume management of all such lands requisitioned by or under the authority of the Provincial Government and continued subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947, and also of such lands requisitioned by or under the authority of the Provincial Government under the Bombay Land Requisition Act, 1948, as the Provincial Government may direct. XVII of 1947. Bom. XXX III of 1948.

Reconstitution of plots.

41. A housing scheme may provide—

(*a*) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot ;

(*b*) with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot ;

(*c*) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme ; and

(*d*) for the transfer of ownership of a plot from one person to another.

Power to exempt schemes from provisions of sections 26 to 33.

41A. [1][The Provincial Government may, by general or special order published in the *Official Gazette*, exempt any housing scheme entrusted by it to the Board from all or any of the provisions of sections 26 to 33 (both inclusive) subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.]

CHAPTER IV.

Acquisition and Disposal Land

Power to purchase or lease by agreement.

42. (*1*) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

(*2*) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, 1894, as modified by this Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894. I of 1894.

Betterment charges.

43. (*1*) When by the making of a housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the

[1] Section 41A was inserted by Bom. 19 of 1949, s. 3.

owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one-half of such increase in value.

(3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

Notice to persons liable for betterment charges.

44. (1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

(2) After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal.

(5) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Agreement for payment of betterment charges.

45. (1) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

(2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

Recovery of betterment charges.

46. All sums payable in respect of any land by any person in respect of betterment charges under section 43 or by any person under an agreement under section 45 shall be recoverable on behalf of the Board as an arrear of land revenue.

Power to dispose of land.

47. Subject to any rules made by the Provincial Government under this Act, the Board may retain, lease, sell, exchange or otherwise dispose of, any land, building or other property vesting in it and situate in the area comprised in any housing scheme sanctioned under this Act.

Disputes regarding reconstitution of plots.

48. (1) Where by the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may after making such inquiry as it thinks fit decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

(2) The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

CHAPTER V.

TRIBUNAL.

Constitution of the Tribunal.

49. (*1*) The Tribunal shall consist of a President and two assessors. In Greater Bombay the President shall be such Judge of the Bombay City Civil Court as may be selected by the Provincial Government and elsewhere the District Judge. The assessors shall be appointed by the Provincial Government.

(*2*) Each assessor of the Tribunal shall receive such remuneration as the Provincial Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

Duties of the Tribunal.

50. The Tribunal shall—

(*a*) decide whether any compensation is payable under section 35 ;

(*b*) decide the amount of compensation in matters referred to it under section 37 ;

(*c*) decide disputes relating to betterment charges referred to it under section 44 ;

(*d*) decide disputes relating to the reconstitution of plots referred to it under section 48 and the amount of compensation to be awarded in consequence thereof.

(*e*) decide such other matters as may be prescribed by rules made in this behalf.

Powers of President.

51. (*1*) In the hearing and decision of any matters referred to the Tribunal under this Act,—

(*a*) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail ; and

(*b*) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(*2*) The decision of the President as to what is the question of law or fact shall be final.

Powers of and procedure before Tribunal.

52. (*1*) In making inquiries under sections 35, 37, 44 and 48, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of—

(*a*) a proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses.

(*2*) In all proceedings before the Tribunal, the Tribunal shall follow the procedure as may be prescribed by rules made by the Provincial Government in this behalf.

(*3*) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in section 46 and for the delivery of the possession or removal of any structure shall be enforced by the Bombay City Civil Court in Greater Bombay and elsewhere by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.

(*4*) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

Decision of Tribunal to be final.

53. The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law.

CHAPTER VI.

FINANCE, ACCOUNTS AND AUDIT.

Expenditure etc. till the Board is established.

54. (*1*) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Provincial Government for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 before and up to the date of the establishment of the Board under this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board ; and all suits and other legal proceedings instituted or which may be instituted by or against the Provincial Government shall be continued or instituted by or against the Board, as the case may be.

(*2*) All expenditure which the Provincial Government shall, not later than six months from the date of the establishment of the Board, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(*3*) All the assets entrusted to the Bombay Provincial Housing Board referred to in sub-section (*1*) for the purposes referred to in the Government Resolution specified in the said sub-section and all assets acquired by the expenditure referred to in sub-section (*2*) shall upon the declaration made by the Provincial Government under sub-section (*2*) vest in the Board for the purposes of this Act.

1 of 1894.

(*4*) All proceedings under the Land Acquisition Act, 1894, pending on the date of the coming into force of this Act in any area for the acquisition of land situated in the said area for the purposes of the Bombay Provincial Housing Board referred to in sub-section (*1*) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.

Board's fund.

55. (*1*) The Board shall have its own fund.

(*2*) The Board may accept grants, subventions, donations and gifts from the Central or Provincial Government or a local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Act.

(*3*) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(*4*) Except as otherwise directed by the Provincial Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the Provincial Government.

(*5*) Such account shall be operated upon by such officers as may be authorised by the Board.

Explanation.—For the purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, and a scheduled bank shall mean a bank included in the Second schedule to the said Act.

11 of 1934.

Application of the fund.

56. All property, fund and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

Expenditure in case of urgency.

57. (*1*) Where in the opinion of the Board, circumstances of extreme urgency have arisen, it shall be lawful for the Board to make in any year,—

(*a*) recurring expenditure not exceeding twenty-five thousand rupees,

(*b*) non-recurring expenditure not exceeding one lac of rupees,

notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the Provincial Government or the variation of the programme made under section 31.

(*2*) where any sum is expended under circumstances of extreme urgency as provided in sub-section (*1*), a report thereof indicating the scarce from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the Provincial Government.

Subventions and loans to the Board.

58. (*1*) The Provincial Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the Provincial Government may determine.

(*2*) The Provincial Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the Provincial Government may determine.

Power of Board to borrow.

59. (*1*) The Board may from time to time, with the previous sanction of the Provincial Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(*2*) The rules made by the Provincial Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(*3*) All debentures issued by the Board shall be in such form as the Board, with the sanction of the Provincial Government, may from time to time determine.

(*4*) Every debenture shall be signed by the Chairman and one other member of the Board.

(*5*) Loans borrowed and debentures issued under this section may be guaranteed by the Provincial Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Provincial Government.

Accounts and audit.

60. (*1*) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.

[1][(*2*) The Board shall cause its accounts to be audited annually by such person as the Provincial Government may direct.]

(*3*) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the Provincial Government; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(*4*) The Board shall comply with such directions as the Provincial Government may after perusal of the report of the auditor think fit to issue.

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[1] This sub-section was substituted for the original by Bom. 19 of 1949, s. 4.

CHAPTER VII.

MISCELLANEOUS

Reports.

61. The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the Provincial Government a report on such matters as may be prescribed, and the Provincial Government shall cause such report to be published in the *Official Gazette*.

Other statements and returns.

62. The Board shall also submit to the Provincial Government such statistics, returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form and manner as may be prescribed or as the Provincial Government may from time to time direct.

Power of entry.

63. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

(*a*) to make any inspection, survey, measurement, valuation or inquiry;
(*b*) to take levels;
(*c*) to dig or bore into the sub-soil;
(*d*) to set boundaries and intended lines of work;
(*e*) to mark such levels, boundaries and line of works and cutting trenches; or
(*f*) to do any other thing;

whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder:

Provided as follows:

(*i*) no such entry shall be made between sunset and sunrise;

(*ii*) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;

(*iii*) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy will not be disturbed;

(*iv*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Notice of suit against Board, etc.

64. No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

Triennial valuation of assets and liabilities of the Board.

65. The Board shall triennially have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Provincial Government:

Provided that it shall be open to the Provincial Government to direct a valuation to be made at any time it may consider necessary.

Power to make rules.

66. (*1*) The Provincial Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following purposes, namely :—

(*a*) the allowances of members and remuneration and conditions of service of the Chairman under section 7 ;

(*b*) the manner and form in which contracts shall be entered into under section 22 ;

(*c*) the form of annual housing programme, budget and schedule of staff of officers and servants, particulars of housing schemes and other particulars to be contained in the programme under section 26 ;

(*d*) the other manner of publication of the draft of the programme under section 27 ;

(*e*) the form of notice under section 44 ;

(*f*) the rate of interest under section 45 ;

(*g*) the other matters to be decided by the Tribunal under section 50 ;

(*h*) the procedure to be followed by the Tribunal under section 52 ;

(*i*) the conditions subject to which the Board may borrow any sum under section 59 ;

(*j*) the manner of preparation, maintenance and publication of accounts under section 60 ;

(*k*) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 61 ;

(*l*) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 62 ;

(*m*) any other matter which is or may be prescribed under this Act.

Regulations.

67. The Board may from time to time, with the previous sanction of the Provincial Government, make regulations consistent with this Act and with any rules made under this Act—

(*a*) for the management and use of buildings constructed under any housing scheme ;

(*b*) the principles to be followed in allotment of tenements and premises ;

(*c*) the remuneration and conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board under section 13 ;

(*d*) for regulating its procedure and the disposal of its business.

68. (*1*) The Board may make by-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act. Power to make by-laws.

(*2*) A by-law made under this section may provide that a contravention thereof shall be an offence.

(*3*) No by-law made by the Board shall come into force until it has been confirmed by the Provincial Government with or without modification.

(*4*) All by-laws made under this section shall be published in the *Official Gazette*.

69. Whoever contravenes a by-law made under section 68 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. Penalty for contravention of by-laws.

70. If any person —

(*a*) obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of any thing which he is empowered or required to do under this Act, or Penalty of obstructing, etc.

(*b*) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act,

he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

71. Unless otherwise expressly provided, no Court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorised by the Board by general or special order in this behalf. Authority for prosecution.

72. All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. Members, officers and servants of the Board to be public servants.

XLV of 1860.

73. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act. Protection of action taken under this Act.

74. (*1*) The Provincial Government may, by notification in the *Official Gazette*, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved : Dissolution of the Board.

Provided that no such declaration shall be made by the Provincial Government unless a resolution to that effect has been moved in and passed by the Bombay Legislative Assembly.

(*2*) With effect from the date specified in the notification under sub-section (*1*)—

(*a*) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the Provincial Government,

(*b*) all liabilities enforceable against the Board shall be enforceable against the Provincial Government to the extent of the properties, funds and dues vested in and realized by the Provincial Government.

(*3*) Nothing in this section shall affect the liability of the Provincial Government in respect of loans or debentures guaranteed under sub-section (*5*) of section 59.

Amendment of Bom. III of 1888, Bom. I of 1915 and Bom. XXXI of 1948.

75. The enactments mentioned in the third column of the Schedule appended to this Act are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

SCHEDULE.

(*Section 75.*)

Year.	No.	Short title.	Amendments.
1	2	3	4
1888	III	The City of Bombay Municipal Act, 1888.	After section 354C, the following new section shall be inserted, namely :— "354CC. Notwithstanding anything contained in this Chapter, no improvement scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948". Bom. LXIX of 1948.
1915	I	The Bombay Town Planning Act, 1915.	After section 8, the following new section shall be inserted, namely :— "8A. Notwithstanding anything contained in this Act, no town planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948". Bom. LXIX of 1948.
1948	XXXI	The Bombay Building (Control on Erection) Act, 1948.	After section 14, the following new sections shall be inserted, namely :— "14A. Notwithstanding anything contained in this Act, the Provincial Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act." Bom. LXIX of 1948.

No improvement schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

No town planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.